

## Senate Bill 125

By: Senators Mullis of the 53rd, Rogers of the 21st, Zamarripa of the 36th, Whitehead, Sr. of the 24th, Stephens of the 27th and others

**AS PASSED**

AN ACT

To amend Titles 50 and 12 of the Official Code of Georgia Annotated, relating respectively to state government and conservation and natural resources, so as to change provisions relating to the Department of Economic Development; to promote tourism through a state-wide tourism marketing program and a more focused administrative structure; to provide for implementation and for coordination of other agencies by the Department of Economic Development; to provide corresponding amendments to powers of the Board of Economic Development; to provide for a Georgia Tourism Foundation and the solicitation and disbursement of contributions; to transfer the assignment for administrative purposes of certain venues and authorities with tourism roles to the Department of Economic Development; to provide for appointment of the board of the Music Hall of Fame Authority; to provide for transfer of functions respecting the Music Hall of Fame Authority from the Department of Community Affairs to the Department of Economic Development; to provide similarly for transfer of functions respecting the Sports Hall of Fame Authority; to provide for an effective date; to repeal conflicting laws; and for related purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended by adding at the end of Article 1 of Chapter 7, relating generally to the Department of Economic Development, a new Code Section 50-7-17 to read as follows:

"50-7-17.

(a) Statement of policy and short title. The General Assembly finds that it is in the state's interest to present a cohesive and vibrant message for the promotion of tourism in Georgia. This Code section, therefore, shall be known and may be cited as the 'New Georgia Foundation for Tourism Act.'

(b) Definitions. As used in this Code section, the term:

- (1) 'Agency' means any officer, board, department, agency, commission, bureau, authority, public corporation, instrumentality, or other entity of state government when engaged in an activity conducive to marketing which promotes tourism.
- (2) 'Coordinate' and 'coordination' include issuing rules, policies, standards, definitions, specifications, coordination, and other guidance and direction.
- (3) 'Department' means the Department of Economic Development.
- (4) 'Implement' and 'implementation' include planning, writing, drafting, designing, study, and market analysis; solicitation and acceptance of gifts, contributions, and cooperation; contracting, procurement, retention of consultants, outsourcing, similar activities, and other activities within the ordinary meaning of the term in this context.
- (5) 'Market' and 'marketing' include promotion, advertising, signage, public relations, press relations, branding, and use of a 'look;' creation, use, and licensing of trademark, copyright, and other intellectual property; discounts; and other activities of similar nature or within the term as it is commonly understood.

(c) Establishment of State-wide Tourism Marketing Program.

- (1) *Generally.* For promotion of tourism in Georgia, the department may establish, implement, and provide for implementing a State-wide Tourism Marketing Program, with common and consistent features for implementation by the department and agencies. Within the State-wide Tourism Marketing Program, the department may establish or authorize various themes and component programs, but such themes and component programs must have common and consistent features with the State-wide Tourism Market Program.
- (2) *Emphases.* As important and substantial components of the State-wide Tourism Marketing Program, the department will place particular emphasis on branding and on the state's great heritage and culture.
- (3) *Sharing of powers.* In marketing and implementation of marketing for tourism, the department may exercise its powers under paragraphs (9) and (11) of Code Section 50-7-8 and may authorize and delegate to agencies all or parts of such powers for their own implementation.

(d) Coordination.

- (1) *Generally.* The department will implement the State-wide Tourism Marketing Program and will also coordinate its implementation by individual agencies.
- (2) *Delegation and agency retention.* The department may delegate marketing implementation activities to agencies in promotion of tourism and may allow agencies to retain marketing and implementation activities in the course of its coordination. The

department will coordinate agencies such that they retain a measure of independence and freedom of action in marketing their own specific activities and functions, consistently with the State-wide Tourism Marketing Program.

(3) *Cooperation.* In addition to the specific administrative instructions of this Code section, the department, the Georgia Technology Authority, the Department of Administrative Services, and agencies and other departments and state authorities will assist and cooperate with one another for the purposes of this Code section.

(4) *Budget.* The department may establish an annual budget covering all the costs of establishing and implementing the State-wide Tourism Marketing Program and determine an equitable basis for prorating all or part of the annual costs among the agencies, subject to approval by the Governor. Upon approval, the Governor may direct that the necessary pro rata share of the agencies assessed be made available for expenditure by the department in the same manner as appropriated funds.

(5) *Exclusion from APA.* Coordination of marketing and implementation of marketing for promotion of tourism will not be subject to the 'Georgia Administrative Procedure Act,' Article 1 of Chapter 13 of Title 50.

(6) *Agency publications.* Without limitation, the department may determine when the publication of official reports and similar documents, and the production of similar material in other media (such as film, video, sound, and other electronic forms) are deemed conducive to promoting tourism. Agencies will then publish or produce such material and information using themes, 'look,' and other marketing elements promulgated by the department for the State-wide Tourism Marketing Program.

(e) Georgia Tourism Foundation.

(1) *Establishment.* There is hereby established the Georgia Tourism Foundation, existing as a public corporation and instrumentality of the state, exclusively limited to the following charitable and public purposes and powers:

- (A) To solicit and accept contributions of money and in-kind contributions of services and property for the State-wide Tourism Marketing Program;
- (B) To make and disburse contributions to the department for such purposes;
- (C) To seek recognition of tax exempt status by the United States Internal Revenue Service and to seek confirmation concerning the deductibility of contributions;
- (D) To formulate recommendations for the State-wide Tourism Marketing Program;
- (E) Subject to approval of the Governor, to create subsidiaries with like character and powers but with limited missions keyed to particular component programs and activities of the department's State-wide Tourism Marketing Program; and

- (F) To provide for additional officers and governance through bylaws which are consistent with the goals of lessening the government burden in promoting tourism, establishing and maintaining tax exempt status, and soliciting deductible contributions.
- (2) *Members.* The governance of the Georgia Tourism Foundation shall be in members, consisting of:
- (A) The commissioner of economic development, who will be chairperson;
  - (B) The commissioner of natural resources;
  - (C) Each of the executive directors of the Jekyll Island-State Park Authority, Stone Mountain Memorial Association, Lake Lanier Islands Authority, Agricultural Exposition Authority, North Georgia Mountains Authority, and Southwest Georgia Railroad Excursion Authority;
  - (D) One representative each from the Aviation, Music, Sports, and Golf Halls of Fame; and
  - (E) Additional private members appointed by the Governor under foundation bylaws.
- The chairpersons of the Senate Economic Development Committee and the House Economic Development and Tourism Committee shall serve as ex officio nonvoting members of the foundation.
- (3) *Administration.* The Georgia Tourism Foundation will be attached to the department for administrative purposes. The Attorney General will be the attorney for the foundation. The department may solicit and accept contributions from the foundation and authorize agencies to do so. The department may cooperate and contract with the foundation for their mutual benefit and authorize agencies to do so. Upon any dissolution of the foundation, its assets will devolve in trust to the department or its successor for use only for marketing to promote tourism for Georgia.
- (4) *Public purpose.* The creation of the Georgia Tourism Foundation and the carrying out of its corporate purposes are in all respects for the benefit of the people of this state and constitute a public and charitable purpose. Further, the foundation will be performing an essential governmental function in the exercise of the powers conferred upon it by this Code section. Accordingly, the foundation shall not be subject to taxation or assessment in any manner, including without limitation taxation or assessment upon any transaction, income, money, or other property or activity. The exemptions granted in this Code section may not be extended to any private person or entity."

**SECTION 2.**

Said Title 50 is further amended by striking paragraph (9) of Code Section 50-7-8, relating to powers of the Board of Economic Development, and inserting in its place a new paragraph to read as follows:

"(9) To solicit and receive gifts, donations, or contributions from any person, firm, or corporation in furtherance of the services, purposes, duties, responsibilities, or functions vested in the board;"

**SECTION 3.**

Said Title 50 is further amended by striking the word "and" at the end of paragraph (10) and by striking paragraph (11) of said Code Section 50-7-8 and inserting in its place new paragraphs to read as follows:

"(11) To authorize the Department of Economic Development to participate with public and private groups, organizations, and businesses in joint marketing projects that promote the economic and tourist development of the State of Georgia and make efficient use of state appropriated marketing funds. In connection with such projects, the department may receive supplies, materials, equipment, services, and other personal property and intangible benefits. It may also issue licenses to others for the use of property in its custody or control, including intellectual property and other personal property, but may not become a joint owner. In acquisitions under this paragraph, the department shall be exempt from the provisions of Chapters 5 and 25 of this title. By way of illustration and not limitation, the department may allow the use of its logo in advertising and on uniforms provided by cooperating entities for wear by department employees. The board shall adopt and amend its policies, regulations, rules, and procedures as necessary to implement this provision and shall not be subject to Chapter 13 of this title, the 'Georgia Administrative Procedure Act,' in doing so. In this paragraph, 'marketing' means promotion, advertising, signage, public relations, press relations, branding, and use of a 'look'; creation, use, and licensing of trademark, copyright, and other intellectual property; discounts; and other activities of similar nature or within the term as it is commonly understood. The department will utilize competitive procedures and the Georgia Registry whenever in its reasonable discretion it is in the best interest of the state to do so. The Georgia Technology Authority will retain its authority over technology but will defer to the department in matters of marketing of economic development and implementation in such overlapping areas as creation of kiosks and web page design and operation. The Department of Administrative Services will retain its authority over

purchasing in areas not peculiarly germane to marketing implementation, such as printing and shipping, but will defer to the department in matters of marketing of economic development and implementation in overlapping areas;

(12) To assist the Georgia Music Hall of Fame Authority for any purpose necessary or incidental in the administration and performance of the Georgia Music Hall of Fame Authority's duties, powers, responsibilities, and functions as provided in Part 10 of Article 7 of Chapter 3 of Title 12;

(13) To enter into contracts with the Georgia Music Hall of Fame Authority for any purpose necessary or incidental in assisting the Georgia Music Hall of Fame Authority in carrying out or performing its duties, responsibilities, and functions; provided, however, that all such assistance shall be performed on behalf of and pursuant to the lawful purposes of the Georgia Music Hall of Fame Authority and not on behalf of the department; and provided, further, that such assistance shall not include the authorization of the issuance of any bonds or other indebtedness of the authority. The department may undertake joint or complementary programs with the Georgia Music Hall of Fame Authority, including the provision for joint or complementary services, within the scope of their respective powers; and

(14) To induce, by payment of state funds or other consideration, any agency or authority assigned to the department for administrative purposes to perform the agency or authority's statutory functions."

#### **SECTION 4.**

Said Title 50 is further amended by striking paragraph (8) subsection (b) of Code Section 50-8-3, relating to powers of the Department of Community Affairs, and inserting in its place a new paragraph to read as follows:

"(8) Reserved; and"

#### **SECTION 5.**

Said Title 50 is further amended by striking subsection (d) of Code Section 50-8-9, relating to the contracts of the Department of Community Affairs, and inserting in its place a new subsection to read as follows:

"(d) Reserved."

**SECTION 6.**

Said Title 50 is further amended by striking subsection (b) of Code Section 50-12-64, relating to the Golf Hall of Fame, and inserting in its place a new subsection (b) to read as follows:

"(b) The board is assigned to the Department of Economic Development for administrative purposes only, as specified in Code Section 50-4-3."

**SECTION 7.**

Said Title 50 is further amended by striking subsection (b) of Code Section 50-12-70, relating to the Aviation Hall of Fame, and inserting in its place a new subsection (b) to read as follows:

"(b) The board is assigned to the Department of Economic Development for administrative purposes only, as specified in Code Section 50-4-3."

**SECTION 8.**

Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural resources is amended by striking subsections (b), (c), and (d) of Code Section 12-3-522, relating to the Music Hall of Fame Authority, and inserting in their place new subsections to read as follows:

"(b) The authority shall consist of nine members. Initially, members shall serve staggered terms of office as follows: two members for one year, two members for two years, two members for three years, and three members for four years. Thereafter, each member shall serve for a term of four years. All members shall be appointed by the Governor and confirmed by the Senate and shall serve until the appointment and qualification of their successors. The members appointed by the Governor shall be selected from the state at large but shall be representative of all of the geographic areas of the state. Such members also shall represent the state's music industry. The Governor is authorized to appoint any elected or appointed state, county, municipal, or school board official or employee, except officials and employees of the legislative or judicial branches of state government, as members of the authority, and any person so appointed is authorized to serve as a member of the authority. All successors shall be appointed in the same manner as original appointments. Vacancies in office shall be filled in the same manner as original appointments. An appointment to fill a vacancy shall be for the unexpired term.

(c)(1) The authority shall hold a meeting each year in July, and, at each July meeting, the authority shall elect its own officers. Officers shall serve for terms of one year each beginning with their election and qualification and ending with the election and

qualification of their respective successors. No person shall hold the same office for more than one consecutive term, and no member of the authority shall hold more than any one office of the authority. No vacancy on the authority shall impair the right of the quorum to exercise all rights and perform all duties of the authority.

(2) The authority is assigned to the Department of Economic Development for administrative purposes only, as specified in Code Section 50-4-3.

(d) Each member of the authority who is not otherwise a state officer or employee shall receive for each day that such member is in attendance at a meeting of the authority a daily expense allowance and reimbursement for transportation costs as provided for in Code Section 45-7-21. Each member of the authority who is otherwise an officer or employee of a state agency or authority may be reimbursed by that agency or authority for meals, transportation, and lodging in the usual manner authorized by law for such officers and employees. The members of the authority shall not receive any duplicate or other compensation for their services as such."

#### **SECTION 9.**

Said Title 12 is further amended by striking subsection (h) of said Code Section 12-3-522, relating to the Music Hall of Fame Authority, and inserting in its place a new subsection to read as follows:

"(h) The commissioner of economic development shall be the executive director of the authority. The executive director shall appoint such directors, deputies, assistants, and other staff members as may be necessary to manage the operations of the authority and may organize the authority into such divisions, sections, or offices as may be deemed necessary or convenient."

#### **SECTION 10.**

Said Title 12 is further amended by striking paragraph (3) of Code Section 12-3-524, relating to the powers of the Music Hall of Fame Authority, and inserting in its place a new paragraph to read as follows:

"(3) To appoint, select, and employ officers, agents, and employees, including engineering, architectural, and construction experts and fiscal agents; to contract for the services of individuals or organizations not employed full time by the authority who or which are engaged primarily in the rendition of personal services rather than the sale of goods or merchandise, such as, but not limited to, the services of accountants, engineers, architects, consultants, and advisers, and to allow suitable compensation for such



services; including the power to contract with the Department of Economic Development or any other department for professional, technical, clerical, and administrative support as may be required and to make provisions for group insurance, retirement, or other employee benefit arrangements, provided that no part-time or contract employees shall participate in group insurance or retirement benefits;"

#### **SECTION 11.**

Said Title 12 is further amended by striking paragraph (23) of said Code Section 12-3-524, relating to the powers of the Music Hall of Fame Authority, and inserting in its place a new paragraph to read as follows:

"(23) The authority shall have the power to contract with the Department of Economic Development or any other department for any purpose necessary or incidental to carrying out or performing the duties, responsibilities, or functions of the authority in exercising the power and management of the authority; provided, however, that such contracts shall not delegate the authorization of the issuance of any bonds or other indebtedness of the authority. No part of the funds or assets of the authority shall be distributed to the Department of Economic Development or any other department, authority, or agency of the state unless otherwise provided by law, except that the authority shall be authorized and empowered to pay reasonable compensation for services rendered and to reimburse expenses incurred and except as may be deemed necessary or desirable by the authority to fulfill the purposes of the authority as set forth in this part. Nothing in this paragraph shall be construed as precluding the provision, by the Department of Economic Development, any other department, authority, or agency of the state, or the authority, of joint or complementary services or programs within the scope of their respective powers."

#### **SECTION 12.**

Said Title 12 is further amended by striking Code Section 12-3-534, relating to the power of the Department of Community Affairs to construct a project for the Music Hall of Fame Authority, and inserting in its place a new Code section to read as follows:

"12-3-534.

The Department of Economic Development is authorized to construct, erect, acquire, and exercise custodial responsibility over the project, as defined in this part, the ownership of which shall be in the state. The costs of any such project may be paid from the proceeds of state general obligation or guaranteed revenue debt. The department is authorized to contract with the authority, the State Properties Commission, the Georgia State Financing

and Investment Commission, or with any other department, agency, commission, board, official, or person for the construction, operation, maintenance, funding, design, or use of such project."

### **SECTION 13.**

Said Title 12 is further amended by striking Code Section 12-3-536, relating to a transfer of employees of the Music Hall of Fame Authority, and inserting in its place a new Code section to read as follows:

"12-3-536.

(a) Effective July 1, 1998, without diminishing the powers of the authority pursuant to Code Section 12-3-524, all personnel positions authorized by the authority in fiscal year 1998 shall be transferred to the Department of Community Affairs. All employees of the authority on June 30, 1998, whose positions are transferred by the authority to the Department of Community Affairs shall become employees of the Department of Community Affairs and shall become employees in the unclassified service of the state merit system as defined in Code Section 45-20-6.

(b) Upon the effective date of this subsection, the functions of the Board of Community Affairs, Department of Community Affairs, and commissioner of community affairs respecting the Music Hall of Fame Authority are transferred to the Department of Economic Development. The commissioner of economic development and the commissioner of community affairs shall arrange administratively for the transfer of records, equipment, and facilities for such transferred functions. The personnel positions authorized by the Department of Community Affairs shall be transferred to the Department of Economic Development, and all employees of the Department of Community Affairs whose positions are transferred shall become employees of the Department of Economic Development with no break in service and in the classified or unclassified service as they were at the Department of Community Affairs."

### **SECTION 14.**

Said Title 12 is further amended by striking subsection (g) of Code Section 12-3-562, relating to the Sports Hall of Fame Authority, and inserting in its place a new subsection to read as follows:

"(g) The authority is assigned to the Department of Economic Development for administrative purposes only."

**SECTION 15.**

Said Title 12 is further amended by striking Code Section 12-3-574, relating to the project of the Sports Hall of Fame Authority, and inserting in its place a new Code section to read as follows:

"12-3-574.

The Department of Economic Development is authorized to construct, erect, acquire, and exercise custodial responsibility over the project, as defined in this part, the ownership of which shall be in the state. The costs of any such project may be paid from the proceeds of state general obligation or guaranteed revenue debt. The department is authorized to contract with the authority, the State Properties Commission, the Georgia State Financing and Investment Commission, or with any other department, agency, commission, board, official, or person for the construction, operation, maintenance, funding, design, or use of such project."

**SECTION 16.**

Said Title 12 is further amended in Code Section 12-3-582, relating to the Golf Hall of Fame Authority, by adding a new subsection (i) to read as follows:

"(i) The authority is assigned to the Department of Economic Development for administrative purposes only, as specified in Code Section 50-4-3."

**SECTION 17.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

**SECTION 18.**

All laws and parts of laws in conflict with this Act are repealed.